UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/263/Add.9
20 November 1995

ENGLISH
Original: RUSSIAN

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Thirteenth periodic report of States parties due in 1994

Addendum

RUSSIAN FEDERATION*

[10 November 1995]

INFORMATION CONCERNING INDIVIDUAL ARTICLES OF THE CONVENTION

Guided by the principles of dignity and equality inherent in each individual and endeavouring to promote respect for and compliance with human rights and fundamental freedoms for all regardless of race, sex, language and religion on the territory of Russia and pursuant to basic international human

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* This document contains the twelfth and thirteenth periodic reports due on 5 March 1992 and 1994 respectively. For the eleventh periodic report of the Union of Soviet Socialist Republics and the summary record of the meetings at which the Committee considered that report, see documents CERD/C/197/Add.1 and CERD/C/SR.878-879.

The information submitted by the Russian Federation in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.52

GE.95-19652 (E)

rights instruments, the prohibition of racial discrimination was embodied in the Constitution of the Russian Federation as one of its basic provisions. Accordingly, article 19, paragraph 2 of the Constitution reads as follows:

> "2. The State guarantees the equality of rights and freedoms regardless of sex, race, nationality, language, origin, material and official status, place of residence, attitude to religion, convictions, membership of public associations, or of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be prohibited."

Moreover, article 29, paragraph 2, states:

> "2. Propaganda or agitation which arouses social, racial, national or religious hatred and hostility shall be prohibited. Propaganda of social, racial, national, religious or linguistic supremacy shall also be prohibited".

Article 74 of the Criminal Code establishes criminal responsibility for persons engaging in deliberate acts intended to stir up national, racial or religious hatred or discord, to detract from national honour and dignity, to promote the idea of the exclusiveness or the inferiority of citizens because of their religious beliefs or their nationality or race, directly or indirectly to restrict the rights of or to establish privileges for citizens because of their race or nationality or their attitude to religion.

This article also stipulates punishment for acts reflected in public statements and appeals, in the press and other mass media, in the preparation and dissemination of leaflets, posters and slogans and also in the organization of gatherings, meetings, demonstrations and active participation in them for the above-mentioned purposes. Article 74 of the Criminal Code should also be construed as constituting a prohibition of discrimination taking the form of a refusal to hire or the illegal dismissal of citizens, the violation of their electoral rights, the infringement of housing, land and other rights and freedoms and also the granting of illegal advantages because a person belongs to a certain national group. The draft criminal code of the Russian Federation, adopted by the State Duma of the Federal Assembly of the Russian Federation also contains a similar list of punishable crimes (art. 146 on the violation of the equality of rights of citizens and art. 273 on incitement to social, national or religious hatred). Furthermore, the commission of an offence for reasons of social, racial or religious hatred or hostility is recognized as an aggravating circumstance.

In his annual message to the Federal Assembly, the President of the Russian Federation confirmed the intention of Russia's leadership to do everything possible to promote the consolidation of Russia's multinational society. The task of State agencies at all levels consists in creating favourable conditions for the development of cultural, religious, business and other relationships between the peoples of various nationalities living in Russia.

"Citizens of the Russian Federation" it is stated in the message, "regardless of their nationality and religious beliefs, have the right to feel safe and secure in any part of the country".

The Government and Federal Assembly are urged to complete their preparation of a State programme on national policy (basic principles) as soon as possible. The main elements of this programme are to be as follows:

Genuine guarantees of the equality of the rights of individuals, regardless of their nationality;

Assistance of every kind in the development of national cultures, of various forms of self-organization for national groups and of a dialogue between them; and

Creation of reliable and really effective machinery to prevent and settle interethnic conflicts.

The President's message urges society and the authorities to combine their efforts and resolutely to reject militaristic nationalism and any manifestations of xenophobia or discrimination on ethnic, racial or religious grounds.

The errors made as well as the frankly illegal acts that were countenanced and directed against national groups during the existence of the USSR are now being recognized and punished. The Russian Federation is making every effort to do historical justice to illegally repressed national groups that were forced to resettle, as well as in connection with the other forms of repression that took place when the Soviet Union held sway. The Law of 26 April 1991 on the rehabilitation of repressed national groups recognizes their right to the restoration of their territorial integrity, the restoration or the creation of new national and State institutions according to their desires, as well as compensation for the damage caused by the State.

A number of other instruments designed to implement this Law have also been adopted. These include Order No. 4721-1 of 1 April 1993 of the Supreme Soviet of the Russian Federation on the rehabilitation of Russian Koreans, which guarantees their right to free national development, offers them the same possibilities as other national groups of exercising their political rights and freedoms, as guaranteed by the legislation in force, as well as of returning on an individual basis to the places where they had previously lived in the territory of the Russian Federation if they wish to do so. The following instruments have also been adopted in implementation of this Law:

The Russian President's Order No. 2290 of 25 December 1993 on measures to rehabilitate the Kalmyk national group and State support for its revival and development;

The Russian President's Order No. 443 of 3 March 1994 on measures to rehabilitate the Balkar national group and State support for its revival and development;

The Russian President's Order of 26 April 1994 on the restoration of justice for members of the Yakut national group who were repressed in the 1920s and 1930s; and

The Russian President's Order No. 1107 of 30 May 1994 on measures to rehabilitate the Karachai national group and on State measures to promote its revival and development.

The right of national groups freely to dispose of their natural wealth and resources is reflected in article 9 of the Constitution:

"1. Land and other natural resources shall be utilized and protected in the Russian Federation as the basis of the life and activity of the peoples living on the territories concerned".

The guarantee of the inalienable right of national groups to their means of subsistence is embodied in article 67, paragraph 3, under which the borders between constituent entities of the Russian Federation may be changed with their mutual consent.

As pointed out in the message of the President of the Federal Assembly of 24 February 1994, "a single ethnic group cannot have the exclusive right of control over the territory, State institutions and resources", which implies the need to adopt agreed decisions reflecting the interests of various national groups.

With respect to the preservation of the natural environment, the development of traditional branches of agriculture and industry in areas of settlement and the economic activities of indigenous national groups, the Russian Parliament is completing its consideration of the Russian Federation's basic legislation on the legal status of small national groups. It was approved on second reading in October 1993 and is intended to confirm that the property of these national groups is inalienable and cannot be estranged without their agreement for industrial or other purposes unconnected with their traditional agricultural and other occupational activities.

With respect to article 5 (d) (ii) of the Convention, it may be noted that the USSR Law on procedures governing the departure of USSR citizens from the USSR and their entry into the USSR which, on 1 January 1993, was made applicable to the territory of the Russian Federation, specifically prohibits the restriction of the political, civil, housing, labour and other rights of all Russian citizens, regardless of their nationality or race, when they enter or leave the territory of the Russian Federation. Article 1 of this Law states that citizens of the Russian Federation may not be deprived of the right to enter or leave the territory of the Russian Federation. At the present time the State Duma of the Federal Assembly of the Russian Federation is examining a draft federal law on procedures governing exit from and entry into the Russian Federation.

The provisions of the present Law give effect to the principle embodied in article 27, paragraph 2, of the Constitution of the Russian Federation, which states that "Everyone may freely leave the Russian Federation. Citizens of the Russian Federation shall have the right freely to return to the Russian Federation".

Equal rights and the guarantee of legal protection

The Constitution contains a list of all inadmissible forms of discrimination, including discrimination based on race, nationality, language, origin, material and official status, place of residence, attitude to religion, convictions, membership of public associations and other circumstances.

Article 48, paragraph 1, guarantees to everyone the right to qualified legal assistance regardless of nationality, race or other circumstances. In the cases envisaged by law, legal assistance is provided free of charge. This point is reflected in the Government Order of 7 October 1993 on the remuneration of lawyers for services rendered to the State. In accordance with article 47 of the Code of Criminal Procedure, this Order requires the Ministry of Finance to earmark funds from State budgets to provide legal assistance free of charge.

The right to the legal protection of rights and freedoms is embodied in article 46 of the Constitution which states "Everyone shall be guaranteed legal protection of his (her) rights and freedoms".

The decisions and acts (or omissions) of State bodies, local government bodies, public associations and officials may be contested in court. The decisions and acts of all law enforcement agencies may also be appealed before a court; previously such appeals were possible only through the procurator's office. The appeal procedure is described in the Law of 27 April 1993 on appeals against acts and decisions which violate the rights and freedoms of citizens.

The 25 September 1992 wording of article 2 of the Labour Law of the Russian Federation guarantees the legal protection of labour rights.

Article 201 of the Labour Code considerably extends the scope of the legal protection afforded the labour rights of all workers, regardless of their work or function.

A special regime has been introduced for categories of Russian citizens of any nationality who were obliged or who intend to leave their place of permanent residence in the territory of another State or in Russian territory due to the fact that they or members of their family were subjected to violence or other forms of persecution or were in real danger of discriminatory persecution because of hostile campaigns, the massive disturbance of public order and other circumstances constituting flagrant violations of human rights. This regime was established under the Law of 19 February 1993 on forced resettlement which describes in detail the procedure by which persons could acquire the status of forced resettlers, their rights and obligations, and arrangements for receiving compensation and assistance. Russia's Federal Migration Service, acting on the basis of the Regulations of 1 March 1993 governing this Service, is responsible for the coordination of questions connected with the implementation of this Law.

Equality before the law. The right to a fair trial

The equality of individuals before the law and in court is proclaimed in the Constitution (art. 19), the Code of Criminal Procedure (art. 14) and the Code of Civil Procedure (art. 9).

Proceedings in all courts are public. Closed court hearings are permitted only in the cases provided for by law and in accordance with legal procedure. Two examples are provided for in article 18 of the Code of Criminal Procedure: when a public trial would be contrary to the interests of the parties or when a closed hearing is necessary to protect State secrets. Cases involving offences committed by persons under 16 years of age, cases involving sexual offences, as well as other cases may - so as to avoid disclosing information about aspects of the intimate life of the parties - also be heard in camera on the basis of a substantiated decision by the court. Closed court hearings of civil cases are permitted in order to prevent disclosure of information about aspects of the intimate life of the parties and also to ensure secrecy in adoption cases. The decision of the court is, in any event, announced publicly.

Any person accused of committing a crime is considered innocent until his (her) guilt is proven in accordance with the procedure laid down by federal law and is confirmed by a court sentence which has entered into legal force (art. 49, para. 1 of the Constitution, art. 6 of the Federal Law of the Russian Federation of 21 June 1995 on the detention in custody of suspects and persons accused of committing a crime). The accused is not obliged to prove his (her) innocence (art. 49, para. 2). Unremovable doubts about the guilt of a person are interpreted in favour of the accused (art. 49, para. 3).

In accordance with articles 148 and 149 of the Code of Criminal Procedure of the RSFSR, the official investigator in bringing a charge is required to explain to the accused the nature of and grounds for the accusation as well as his rights, which specifically include familiarization with all the documents relating to the case, alone or with the help of an interpreter. The accused is provided with the evidence gathered in the course of the investigation as well as relevant court documents, translated into his mother tongue or into another language he knows (art. 17 of the Code of Criminal Procedure of the RSFSR). An interpreter's services are provided free of charge.

In accordance with article 48 of the Constitution, everyone is guaranteed the right to qualified legal assistance. In the cases envisaged by law, legal assistance is provided free of charge. Specifically, the body conducting the preliminary investigation, the court or the procurator's office can find that the participation of a defence lawyer is essential and thus relieve the accused of the obligation to pay for legal assistance in full or in part. Any person detained, taken into custody or accused of committing a crime has the right to the assistance of a lawyer (counsel for the defence) from the moment of being detained, placed in custody or accused (art. 48, para. 2 of the Constitution). The period of detention on suspicion of having committed a crime may not exceed 48 hours, after which the person detained is either released or the question of his arrest resolved in accordance with the procedure laid down by law.

The defence lawyer is selected and invited to participate by the accused himself, his legal representative or by other persons at the request or with the agreement of the accused (art. 48 of the Code of Criminal Procedure of the RSFSR). From the moment he is allowed to enter the case, the defence lawyer is authorized to have an unlimited number of meetings with the accused (art. 51 of the Code of Criminal Procedure of the RSFSR); in other words, the accused can communicate with his defence lawyer as often as he wishes.

The accused may, during the preliminary investigation as well as in court, request the appearance of any witness, including those testifying against him, and put to them any questions he wishes (arts. 46 and 223 of the Code of Criminal Procedure of the RSFSR).

In order to prevent unjustified delays in court proceedings, the time-limits that have to be observed by the investigator and the court are laid down by law. Specifically, a criminal investigation must be completed in two months (art. 133 of the Code of Criminal Procedure of the RSFSR), and a court hearing must be fixed not more than 14 days from the time the case has been referred to a court if the accused is being held in custody, and one month in other cases (art. 223, para. 1 of the Code of Criminal Procedure of the RSFSR).

Any person convicted of a crime has the right to appeal against the verdict to a higher court in accordance with the procedure established by federal law, as well as to request pardon or mitigation of the punishment (art. 50, para. 3 of the Constitution).

Moreover, according to the same article of the Russian Constitution, nobody may be convicted twice for one and the same crime (art. 50, para. 2).

In the case of an unjustified sentence, every citizen has the right to compensation by the State for the damage sustained (arts. 52 and 53).

The legal personality of any individual in the territory of Russia is recognized as being important in guaranteeing human rights and freedoms (chap. II of the Constitution) subject, of course, to specific regulations concerning the rights and duties of various categories of persons (members of the armed forces, persons who have resettled, foreigners, etc.) in accordance with Russian legislation.

The right to freedom and personal inviolability

The right to freedom and personal inviolability is guaranteed by article 22 of the Constitution, which states:

> "1. Everyone shall have the right to freedom and personal inviolability.
>
> "2. Arrest, detention and keeping in custody shall be permissible only under a court order. A person may not be detained for more than 48 hours without a court order."

Under article 5 of the Law on the militia ("Functions of the militia and human rights"), the militia may restrict a citizen's rights and freedoms only on the basis of and in conformity with the procedure laid down in this Law.

Under the Law on citizenship (art. 19, para. 3 (a)), all persons possessing a USSR passport may claim Russian citizenship and consequently have the right of unrestricted entry into Russia.

Movements of persons across frontiers in exercise of the right to work are regulated by Russian legislation on foreign labour migration and the practical measures introduced to implement it. The basic instrument on this subject is Law No. 1031-1 of 19 April 1991 on employment on the RSFSR, as amended on 15 July 1992, Government Order No. 539 of 8 June 1993, the Regulations specifying the procedure and conditions for the licensing of activities connected with finding employment for citizens of the Russian Federation abroad and the Regulations on the recruitment and use of foreign labour in the Russian Federation, approved by Presidential Decree No. 2146 of 16 December 1993.

The practical measures being taken in this connection by Russia's Federal Migration Service are designed to protect the national labour market, give priority to Russian citizens in filling vacancies, protect the rights of Russian citizens exercising a professional activity abroad and assist them in finding jobs with foreign employers in the framework of intergovernmental and inter-branch agreements.

Freedom from arbitrary interference in an individual's private life, inviolability of the home and privacy of correspondence

Freedom from arbitrary or illegal interference in a person's private and family life, and from arbitrary or illegal infringement of the inviolability of the home or privacy of correspondence, honour and good name is embodied in the following articles of the Constitution:

Article 21, paragraph 1

"Human dignity shall be protected by the State. Nothing may serve as a basis for its derogation."

Article 23

"1. Everyone shall have the right to the inviolability of his (her) private life, personal and family privacy, and protection of his (her) honour and good name.

"2. Everyone shall have the right to privacy of correspondence, of telephone conversations and of postal, telegraph and other communications. This right may be limited only on the basis of a court order."

Article 24, paragraph 1

"1. Collecting, keeping, using and disseminating information about the private life of a person shall not be permitted without his (her) consent."

Article 28

"Everyone shall be guaranteed freedom of conscience and religion, including the right to profess individually or collectively any religion or not to profess any religion, and freely to choose, possess and disseminate religious and other convictions and act in accordance with them".

Article 29, paragraph 1

"1. Everyone shall be guaranteed freedom of thought and speech".

In the course of the process of elaborating on constitutional guarantees of an individual's right to freedom and personal inviolability, the Code of Criminal Procedure of the RSFSR was supplemented by article 220, paragraph 1, and article 220, paragraph 2, on appeals to a court concerning a person's arrest or the extension of the period of his detention in custody and on the court's verification that such measures were legal and justified. On two occasions (27 April 1993 and 29 September 1994) the Supreme Court of the Russian Federation examined court practice in these matters, and on 3 May 1995 the Constitutional Court of the Russian Federation recognized, in connection with a complaint brought by citizen V.A. Avetyan, the unconstitutionality of the provisions of article 220, paragraph 1 of the Code of Criminal Procedure of the RSFSR which limited the number of people enjoying the right to appeal to a court about their arrest, as well as that of the related provisions of article 220, paragraph 2, of the Code of Criminal Procedure of the RSFSR.

Whereas up to the end of the 1980s the proclaimed freedom of conscience and religion served as a cover for the policy of State atheism, the authorities at the present time recognize the important role played by religion in reviving spiritual values and are providing tangible assistance and support to various Russian religious organizations and associations. For example, in compliance with the President's guidelines of 23 April 1993, the Russian Government adopted Order No. 466 of 6 May 1994 which introduced stopgap procedures for the transfer of religious property under federal ownership to religious associations. Over 300 religious buildings and premises are being transferred to various religious associations under this Order.

Article 14 of the Constitution is of particular importance, in that paragraph 1 states that no religion may be established as the State religion or as obligatory. Paragraph 2 of this article adds that religious associations are to be separate from the State and equal before the law. These provisions constitute practical application of article 18, paras. 1 and 2 of the Covenant.

The Law on freedom of religion of 25 October 1990 was adopted in pursuance of article 18 of the Covenant.

The right to freedom of thought, conscience and religion is confirmed in articles 3 to 6 and 22 of this Law.

The prohibition of coercion in connection with the implementation of this right is embodied in articles 6 and 16 of the Law. Violation of the freedom of conscience and religion is punishable under the Criminal Code (art. 143), and persons preventing the exercise of the right to this freedom may be prosecuted under the Code on Administrative Offences (art. 193), if their action is not regarded as a criminal offence. Convicted persons have the right to profess any religion or to profess none at all. They are allowed to visit places of worship or priests are invited to come to perform religious rites. Churches, mosques and prayer rooms are being opened in the settlements.

The restrictions placed on the exercise of this right in article 4, paragraph 2 state that the exercise of the rights and freedoms of the individual and citizen must not violate the rights and freedoms of others.

Propaganda in favour of social, racial, national, religious or linguistic supremacy is prohibited under article 29, paragraph 2 of the Constitution. Moreover, article 6, paragraph 2 of the Law on freedom of religion states that persons will be held responsible under the law for stirring up hatred and hostility on account of the religious or atheistic convictions of citizens. Persons responsible for deliberate acts of this nature are prosecuted under the Criminal Code.

Article 9, paragraph 5 of this Law requires the State to respect the freedom of parents or legal guardians in providing their child with religious and moral instruction in accordance with their own beliefs.

According to article 10 of the Law, all religions and religious associations are equal before the laws of the State. No religion or religious association enjoys any privileges and may not be subject to any restrictions in comparison with the others.

The State is neutral in matters concerning freedom of religion and beliefs, in that it does not take the part of any religion or set of beliefs. This principle is embodied in the provisions on the Federal Civil Service, approved by Presidential Decree No. 2267 of 22 December, article 10 of which states that a civil servant may not use his official powers to influence attitudes to religion or to participate as a State employee in religious ceremonies.

Prohibition of propaganda in favour of war, and incitement to discrimination and violence

Article 29, paragraph 2 of the Constitution prohibits agitation that arouses national, racial or religious hatred as incitement to discrimination, hostility and violence.

Additional guarantees in this connection are provided by the State's obligation to protect the rights and freedoms of the individual and citizen (art. 2 and art. 45, para. 1), to ensure the equality of individuals and to prohibit the restriction of their rights on racial, national, linguistic or religious grounds (art. 19, para. 2). Individuals are held responsible under the Criminal Code for stirring up racial or national hatred and enmity (art. 74).

The propagation in the territory of the former USSR, and above all in Russia, of ideas of xenophobia, extremism, intolerance, ethnic superiority, the cult of race, religious exclusiveness, "national ideas" and nationalistic slogans, as well as the idea of establishing a national authoritarian regime in the country and conducting an imperial policy on the basis of the suppression of "foreigners" and dissidents, are of serious concern to Russian authorities and society, in which the democratic transformations taking place are under threat.

Recourse to these ideas and slogans during the events that occurred on 3-4 October 1993 in Moscow to justify the transition from words to the violence that resulted in a number of victims met with a resolute response on the part of the Russian authorities, which put an end to the activities of a number of social associations (Instruction No. 131/16-47 and No. 133/16-47 of 4 and 6 October 1993 of the Ministry of Justice). Under Presidential Decree No. 1661 of 19 October 1993, a number of social associations and parties which were propagating ideas of national hatred and discord, openly threatening to use violence and calling for violence, and engaging in activities intended to destabilize the Government and to monopolize power were deprived, on 12 December 1993, of the right to register with a view to participating in the elections for Parliament and the Federation's representative State bodies.

Since 1991 10 criminal cases have been dealt with by the courts under article 74 of the Criminal Code. Five guilty verdicts were handed down. A number of these cases involved dissemination of anti-semitic ideas. In this connection the general procurator's office checked 24 indictments and found that 1 case had been dismissed on legal grounds and that 3 cases are being tried. In 1993 criminal proceedings were instituted against one person under this article; in 1994 there were none.

Specific cases involving the publication of material that could be interpreted as incitement to discord between national groups are heard by the President's Court for the Settlement of Disputes Concerning the Dissemination of Information.

The task of preventing a repetition of past events calls for efforts to curb the danger presented by the propagation of ideas promoting aggressive nationalism and xenophobia, fascism, anti-semitism and intolerance of ethnic minorities.

For this reason, the Russian authorities are taking active steps to promote principles of tolerance and a sense of justice in society and at the same time to strengthen guarantees of the freedom of speech, to hold demonstrations and to establish public organizations.

On 23 March 1995 the President of the Russian Federation signed the Decree on measures for the implementation of agreed action by State bodies in efforts to curb manifestations of fascism and other forms of political extremism in the Russian Federation. This Decree specifies legislative and administrative measures designed to activate and strengthen efforts to curb manifestations of fascism and racism. Appropriate instructions and recommendations are being addressed to the competent authorities.

For example, the Decree calls for stricter supervision by the procurator's office of compliance by all enterprises, establishments, organizations and public associations in the territory of the Russian Federation with constitutional provisions guaranteeing the equal rights of citizens regardless of social, racial, national, linguistic or religious considerations, protecting the dignity of the individual, and prohibiting the establishment and the activities of associations whose aims and actions are specifically intended to stir up social, racial, national and religious discord.

The general procurator's office has been instructed to contribute actively to the solution of this problem in cooperation with the Ombudsman, the President's Court for the Settlement of Disputes Concerning the Dissemination of Information, the public associations concerned and the media. Furthermore, the general procurator's office is required to submit, by 1 August 1995, an account of the steps taken to implement the Presidential Decree.

The Ministry of Foreign Affairs, the Federal Intelligence Service (now the FSS), the State Customs Committee and the Federal Frontier Service of the Russian Federation, within their respective spheres of competence, have been instructed to detain and bring to account, in accordance with the legislation in force, persons found distributing printed material as well as films and photographic, audio and video materials intended to promote fascism and stir up social, racial, national or religious discord, and to take steps to confiscate such printed and other material.

Executive and local government bodies have been instructed that, when they examine requests to hold gatherings, meetings and demonstrations, they should reject the requests of public associations or organizations if, during their previous public meetings, appeals were made to stir up social, racial, national and religious discord.

The Decree calls upon the Supreme Court of the Russian Federation to provide an explanation of the concepts and terms contained in the legislation in force concerning liability for acts intended to incite social, racial, national and religious discord.

In accordance with the provisions of this Decree, the President of Russia intends in the very near future to propose amendments and additions with a view to establishing liability for manifestations of fascism and other forms of extremism in the criminal legislation of the Russian Federation as well as Russian legislation on administrative offences, the media and public associations.

Initiatives aimed at strengthening international guarantees of freedom from aggressive nationalism constitute an important element in Russia's foreign policy.

A declaration on aggressive nationalism was adopted on Russia's initiative at the Rome meeting of the Council of Ministers of Foreign Affairs of States members of CSCE in December 1993. Moreover, the threat to peace and democracy posed by aggressive nationalism, anti-semitism and political extremism is mentioned in the joint Russian-United States Declaration on Human Rights, adopted by the Presidents of Russia and the United States in January 1994 (see also article 27).

Right to freedom of association

The right to freedom of association is embodied in article 30 of the Constitution, which states:

"1. Everyone shall have the right of association, including the right to establish trade unions for the protection of their interests. The freedom of activity of public associations shall be guaranteed.

"2. Nobody may be compelled to join any association or to stay there."

On 14 April 1995, the State Duma adopted the Federal Law on public associations.

Article 3 of this Law embodies the constitutional provision on the right to freedom of association. It states specifically that the right of citizens to freedom of association includes the right to establish, on a voluntary basis, public associations to protect general interests and achieve general objectives, the right to become a member of existing public associations or to refrain from joining them, and also the right to withdraw from public associations.

Article 15 of the Law proclaims the equality of public associations before the law, regardless of their form of organization.

One of the most important provisions of this Law is article 16, entitled "Restrictions on the establishment and on the activities of public associations", paragraph 1 of which prohibits the establishment and the activities of public associations whose purposes or activities are aimed at changing the basis of the constitutional order by violence and destroying the integrity of the Russian Federation, undermining State security, creating military formations, and stirring up social, racial, national or religious discord. Specifically, failure to comply with the provisions of this article may result in the State's refusal to register the public association under the provisions of article 23. Associations, by virtue of the example they should give, must not offend the national and religious feelings of citizens (art. 24 of the Law).

The right to participate in elections and access to State service

A number of specific rights of citizens, regardless of their nationality or race, are reflected in article 32 of the Constitution.

For example, the right of citizens to participate in the management of State affairs is provided for in article 32, paragraph 1 which, however, fails to say that representatives are "freely elected", although this is obvious in the context of other provisions of the Constitution such as those of article 32, paragraph 5, which states that "Citizens of the Russian Federation shall have the right to participate in the administration of justice", and also in article 326, paragraph 5 which also refers to the right of citizens of the Russian Federation to participate in the administration of justice.

The right to elect and to be elected to State government bodies and local government bodies is enjoyed by all citizens of the country, with the exception of those recognized as being incapable by a court and those who are kept in places of detention as a result of a court sentence.

The equal access of citizens to State service in Russia is guaranteed by article 32, paragraph 4 of the Constitution, and is governed by the Regulations on federal State service approved by Presidential Decree No. 2267 of 22 December 1993.

These Regulations are based on the principle of equal access by citizens of the Russian Federation to State service in accordance with their abilities and training, without any discrimination whatever. Persons wishing to enter State service must possess the education and training corresponding to the nature of and functions associated with the post they are seeking. The qualifications required in respect of specific posts are established separately - by the President in the case of the higher and principal positions and by the Russian Government or by the State body which it entrusts with this task in the case of the others. No direct or indirect conditions of any kind based on race, sex, nationality, language, social origin, material status, place of residence, attitude to religion, convictions or membership in public associations may be laid down when persons are being considered for State service.

The right of persons belonging to minorities

The promotion and protection of the rights of persons belonging to minorities and small national groups contribute to the political and social stability of the State. It should be added that such action entails not only the "negative" but also the "positive" protection of minorities.

Relations affecting the rights of national minorities and small national groups in the Russian Federation are regulated at two levels, namely, at the Federal level and at the level of the Federation's constituent entities.

Article 68, paragraph 3, of the Constitution guarantees to all peoples of the country the right "to preserve their native language and to create conditions for its study and development".

The various federal instruments containing provisions concerning the rights of minorities and small indigenous national groups include the Declaration on the State Sovereignty of the RSFSR of 12 June 1990, the Declaration on the Rights of Man and the Citizen of 22 November 1991, the constitutions of the republics and declarations on State sovereignty, as well as the agreements concluded by several republics and the enactments of territories and oblasts comprising the Russian Federation.

The Government's obligations to protect the cultural and linguistic uniqueness of minorities in the Russian Federation are also described in the Law on the languages of the peoples of the RSFSR of 25 October 1991, the Declaration on the languages of the peoples of Russia of 25 October 1991, the Law on education of 10 July 1992, the Russian Federation's Basic Legislation on Culture of 9 October 1992, etc.

The Constitution of the Russian Federation proclaims not only the principle of the equal rights of citizens regardless of their nationality (art. 19), but also the right freely to determine and declare their nationality, the right to use their native language and freely to choose the language of communication, upbringing, education and creative work (art. 26). The Constitution prohibits all forms of limitations of human rights on social, racial, national, language or religious grounds (art. 19).

The Declaration of the State Sovereignty of the RSFSR of 12 June 1990 emphasizes in particular the guarantee provided to each national group comprising the Republic of the right to self-determination in the national/State and national/cultural forms they have opted for.

Special specific rights which can be regarded as constituting the "positive" protection of minorities are also embodied in the various instruments referred to above. For example, the Russian Federation's Basic Legislation on Culture reaffirms and elaborates on the right of peoples and other ethnic communities to preserve and develop their national cultural uniqueness, and to protect, restore and preserve their age-old cultural and historical environment, as well as the right of these ethnic communities to cultural and national autonomy.

The Law on the languages of the peoples of the RSFSR guarantees national minorities the right to use their mother tongue; the Russian Federation's Law on education guarantees the right of minorities to education in their mother tongue, the Law on employment requires the Government to pursue a State policy designed to ensure employment in areas inhabited by small national groups and nationalities, taking into account the national uniqueness of their economic and cultural activities and also various forms of employment that have been developed in the past.

Article 69 of the Constitution "guarantees the rights of indigenous small peoples in accordance with the universally-recognized principles and norms of international law and international treaties of the Russian Federation" and article 71 gives the Russian Federation jurisdiction over the regulation and protection of the rights of national minorities, the establishment of the basic principles of federal policy and federal programmes in the spheres of the country's cultural and national development. Under article 72 of the

Constitution, the protection of the rights of national minorities, as well as of the traditional habitat and the traditional way of life of small ethnic communities, is under the joint jurisdiction of the Russian Federation and its constituent entities. This is explained not only by the fact that this problem is common to all regions but also by the complexity of the ethnological situation in many areas of the Russian Federation and the need to adopt discrete decisions in this sphere. Considerable progress has already been made in a number of regions to solve the problems posed by minorities. However, most of the Federation's constituent entities lack a clear-cut official policy in this area.

The Republic of Sakha (Yakutia) is one of the areas where legal efforts have been made to solve the problem of national minorities and small indigenous national groups. The Constitution of the Republic of Sakha (Yakutia), which was adopted on 4 April 1992 together with various general provisions on the equal rights of all peoples living in the territory of the Republic, contains a large number of articles dealing with the rights of small national groups. These rights concern the ownership and use of land and resources, including tribal, agricultural, hunting and handicraft areas protection against the infringement of ethnic uniqueness, and of the areas historically connected with this characteristic, as well as memorials reflecting aspects of spiritual and material culture. The Constitution guarantees the preservation and revival of the indigenous national groups of the Republic (art. 42), and of their language, national culture and uniqueness (art. 49).

The Constitution of the Republic of Bashkortostan, adopted on 6 January 1994, prohibits use of the rights and freedoms of citizens of the Republic to stir up racial, national and religious hatred (art. 18) and any restriction of the rights of citizens on racial, national, linguistic or religious grounds (art. 20). Moreover, the Constitution proclaims that citizens of the Republic have the right to determine and declare their nationality and adds that nobody will be forced to determine and declare their nationality. Citizens are accorded the right freely to choose the language of communication, to use their mother tongue, and to be brought up and educated in their mother tongue (art. 35). Moreover, the Republic recognizes and guarantees the equal right of all national groups living in its territory to the preservation and development of their languages and offers possibilities for their unhampered development (art. 36). The ethnic communities living in the Republic have the right to establish their own national and cultural associations; the Republic also ensures the preservation and development of the national culture of the national groups living in its territory (art. 53).

Several republics, such as those of Khakassia, Buryatia and Tatarstan, have adopted language laws that proclaim the right of national minorities and small national groups to use their mother tongue. Several of the Russian Federation's constituent entities regulate the establishment and activities of national territorial units (examples being the Karelian Republic's Law of 22 November 1991 on the legal status of the national region, national communities and village councils in the Republic of Karelia; the Buryatian SSR's Law of 24 October 1991 on the legal status of Evenk village (community) Councils of People's Deputies in the territory of the Buryatian SSR; and the decision of the Presidium of the Kemerovsk oblast Council of

People's Deputies of 20 November 1991 on the provisional status of the national village council (Aimak)). The organization and activities of various other forms of self-government, such as those of nomadic tribal communities, are also regulated (examples being the Law of 23 December 1992 on the nomadic tribal communities of small national groups; and the Regulations on the status of tribal land in the Khanty-Mansi autonomous area, approved at the fifth session of the Council of People's Deputies of the Khanty-Mansi autonomous area - twenty-first convocation of 7 February 1992, etc.).

These instruments reflect international standards in respect of human rights and national minorities and raise the status of citizens in the national context to the international level.

Nevertheless, existing legislation is as yet clearly inadequate and calls for considerable improvement. Some of the difficulties encountered in this sphere call for solutions to mainly economic and technical problems (such as realization of the right to education in one's mother tongue).

The Russian Federation has yet to come up with a concept, applicable to the country as a whole, of a legal policy to protect the rights and interests of minorities, taking into account not only the experience acquired throughout the world but also Russia's special situation. Delays are being encountered in the adoption of the Russian Federation's basic legislation on minorities that would offer all necessary guarantees of the protection of the rights and interests of minorities in Russian in combination with the basic rights, freedoms and duties of the individual and citizen. The Russian Federation's basic legislation on the legal status of indigenous small national groups has been drafted but not yet adopted.

Its adoption would make it possible to create uniform machinery for the regulation of relationships affecting the status of national minorities and small national groups in all regions of the Russian Federation, and constitute a basis for the further development of such relationships in those regions.

Efforts to protect the rights of national minorities are part of the process of concluding and strengthening agreements between national groups in Russia, taking into account ethnic, economic and religious characteristics and harmonizing the interests of ethnic and national groups in the transition from the totalitarian and rigid centralized system of federal relationships to a more asymmetric framework. Of particular importance in this process is the Federal Agreement, which would make federal State bodies responsible for regulating and protecting the rights of national minorities and these bodies and the Federation's constituent entities jointly responsible for the protection of the rights of national minorities. This approach is reflected in the Constitution (arts. 71 and 72). The agreement between the Russian Federation and the Republic of Tatarstan, which established this Republic's special status in the Federation, leaves under federal jurisdiction the regulation and protection of the rights of national minorities but transfers to the State bodies of the Republic of Tatarstan the task of protecting the rights and freedoms of the individual and citizen, not mentioning the special protection of the rights of national minorities but stipulating in the preamble the task of ensuring agreement between national groups and the security of peoples and the priority to be accorded to the

fundamental rights and freedoms of the individual and citizen regardless of nationality, religious beliefs, place of residence and other circumstances. Of particular importance in this respect is the agreement embodied in article III of the Federal Agreement to the effect that, except for the functions transferred to the federal bodies, the Federation's constituent entities exercise full authority.

Agreement between national groups in Russia is being achieved by determining national policy priorities and shaping concepts of Russian federalism. In this context, the threat posed to the federal basis of the country's State structure by aggressive nationalism remains, since it places in opposition the interests of the multinational Russian people and those of individual national and ethnic groups. In the context of the Ossetia-Ingush conflict, the Russian authorities are making efforts to counter the trend that would permit persons who stirred up discord between national groups - thus giving rise to national extremism and tension in an area where a state of emergency prevailed - to evade responsibility for their acts.

As a result, the Russian Government's discussion of national policy guidelines in the Russian Federation, failed to mobilize support in favour of the approach aimed at doing away with existing national State formations in Russia or the division of the country on the basis of national characteristics. Of particular importance in this respect is the message of 24 February 1994 from the President of the Federal Assembly to the effect that no single ethnic group can have the exclusive right of control over the territory, institutions of State authority and resources of the country.

A draft multilateral convention guaranteeing the rights of persons belonging to national or ethnic, linguistic and religious minorities has been prepared by CIS and at the present time is being considered by the Parliaments of member countries. Talks exploring the possibility of bilateral agreements on the subject have begun. A multilateral agreement on matters connected with the restoration of the rights of persons who had been deported, as well as those of national minorities and peoples, was signed on 9 October 1992.

Implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in 1992 by the United Nations General Assembly at its forty-eighth session, a Declaration was signed on 11 November 1992 concerning principles of cooperation between the Russian Federation and the Republic of Hungary with a view to guaranteeing the rights of national or ethnic, religious and linguistic minorities.

Conclusion

A draft federal programme of action in the sphere of human rights has been prepared in the Russian Federation. One of its purposes is to propose methods of planning and coordinating State efforts to achieve a radical improvement of the situation in this sphere on the basis of the Constitution and the Russian Federation's international legal obligations.

The relevant part of the programme states that the most important condition for the development of democracy in Russia and for ensuring the political and social stability of the country is the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

In the opinion of the bodies that drafted the programme, namely, the Russian Ministry of Foreign Affairs and the Human Rights Commission attached to the Office of the President of the Russian Federation, the priority task in this connection is to adopt additional measures in respect of the country as a whole, as well as at the level of the Russian Federation's constituent entities, with a view to the realization of the fundamental rights of minorities, such as the right to make use of the achievements of their respective cultures, to propagate their religions, to use their own languages, to participate in the work of State bodies, etc.

The draft law on national and cultural autonomy in the Russian Federation is, to a great extent, directed at the solution of this problem. This draft provides for the regulation of relationships in the process of the unhampered selection by national communities of ways and means of achieving national and cultural development, and the introduction of additional legal guarantees to ensure equal opportunities for Russia's citizens, regardless where they live in the country, in their search for ways to satisfy their national and cultural needs.

Solution of the problem of guaranteeing the rights of minorities also implies the adoption of measures to curb the forces which have recently emerged in Russian society to propagate ideas of chauvinism, xenophobia, anti-semitism and aggressive nationalism.

The ideas put about by these forces and their incitement to fight foreigners are fraught with danger not only for the minorities living in Russia but above all for the territorial integrity and national security of the country. For this reason, Russia's national policy should be directed not only at the promotion and protection of the rights of minorities but also, at the same time, at countering in a resolute manner any manifestations of national, racial or religious intolerance. Steps must therefore be taken to draw up in detail the legal provisions necessary to implement the constitutional prohibition of propaganda in favour of social, racial, religious or linguistic supremacy. For this purpose, it would be desirable to refer to the Decree of 23 March 1995 of the President of the Russian Federation, already mentioned above, on measures to harmonize the efforts of State bodies to curb manifestations of Fascism and other forms of political extremism in the Russian Federation.

The preparation of various programmes has also pointed up the need for a number of priority measures to protect and promote the rights of minorities which must be carried out as a matter of urgency. These measures are as follows:

Preparation and adoption of a Russian Federation law regulating the rights of persons belonging to national or ethnic, religious and linguistic minorities. The provisions of a law of this kind should

reflect the principles embodied in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

Completion of the preparation and speedy signature of the CIS Convention guaranteeing the rights of persons belonging to national minorities, and the subsequent implementation of its provisions. Signature of bilateral agreements with CIS countries which do not sign this Convention; and

Preparation of a set of measures to promote local self-government in areas where there is a high density of small national groups and assistance in preserving and developing the traditional structure of their economies and way of life, language and culture.

It is worth noting that a Convention guaranteeing the rights of persons belonging to national minorities was signed on 21 October 1994, on the initiative of the Russian Federation, in the framework of the Commonwealth of Independent States.

Implementation of all the other measures referred to above will impart additional momentum to the process of preparing legislation, strengthen the rule of law, foster respect for human rights in society and improve the social protection of the population.